

**THE PLAT COMMITTEE OF
THE AREA PLAN COMMISSION OF
ST. JOSEPH COUNTY, INDIANA**

MINUTES

January 7, 2021
8:30 a.m.

Council Chambers, 4th Floor
County-City Building, South Bend, IN

MEMBERS PRESENT:

John R. McNamara, P.E., L.S.
Chuck Bulot
Sky Medors, P.E.
Brett Davis
Dave Cherrone

ALSO PRESENT:

Abby Wiles
Shawn Klein
Samantha Keultjes

SUBDIVISIONS REQUIRING A PUBLIC HEARING

1. MAJOR SUBDIVISIONS - PRIMARY APPROVAL:

Clover Hills Subdivision

7193-20-P

SHAWN KLEIN: This Major Primary subdivision is located on east side of Clover Road at the Indiana-Michigan border, St. Joseph County. This subdivision will consist of 19 building lots. The total area is 22.02 acres. A check of the Agency's maps indicates that no environmental hazard areas or wetlands are present. The rights-of-way are correct as shown. The County Surveyor recommends approval subject to Urban Drain approval. The County Engineer recommends approval subject to drainage plan approval, and notes that an accel/decel lane and passing blister will be required. The County Health Department recommends approval, noting that septic locations may need to be adjusted to meet contour requirements prior to final approval. The professional land surveyor, on behalf of the applicant, requests the following waiver: 1) from Section 153.135 (H) to allow Clover Hills Drive to cross the 5' non-access easement to allow access to Clover Road. The applicant has submitted an Urban Drain Petition on December 28, 2020. The Staff has reviewed this Subdivision and finds it complies with the requirements for Primary Approval as specified by the St. Joseph County Subdivision Control Ordinance. The Staff therefore recommends that this Subdivision be granted Primary Approval, subject to the following: Urban Drain approval, drainage plan approval, a note added to the plat stating that the access waiver was granted, and submission of a plat with the surveyor's signature.

IN FAVOR

There was no one present to speak in favor of this petition.

REMONSTRANCE

There was no one present to speak in remonstrance of this petition.

After due consideration, the following action was taken:

Upon a motion by Sky Medors, P.E., being seconded by Chuck Bulot and unanimously carried, the waivers from 1) from Section 153.135 (H) to allow Clover Hills Drive to cross the 5' non-access easement to allow access to Clover Road were approved.

Upon a motion by Sky Medors, P.E., being seconded by Dave Cherrone and unanimously carried, the Plat Committee finds the evidence adduced at this Plat Committee Hearing supports each element of the Staff Report, and Clover Hills Subdivision Subdivision therefore complies with the St. Joseph County Subdivision Control Ordinance and is granted Primary Approval, subject to the following: Urban Drain approval, drainage plan approval, a note added to the plat stating that the access waiver was granted, and submission of a plat with the surveyor's signature.

Silver Oak Subdivision

7192-20-P
(Audio Position: 2:54)

SHAWN KLEIN: This Major Primary subdivision is located on the south side of State Line Road approximately 540' east of State Road 933 , St. Joseph County. This subdivision will consist of 7 building lots. The total area is 3.05 acres. A check of the Agency's maps indicates that no environmental hazard areas or wetlands are present. The rights-of-way are correct as shown. The County Surveyor recommends approval. The County Engineer recommends approval subject to drainage plan approval. The County Engineer notes that St. Joseph County is not responsible for State Line Road, and that therefore access to the road will likely require separate approval through the relevant regulating agency. An Urban Drain Petition was submitted by the applicant on December 28, 2020. The Staff has reviewed this Subdivision and finds it complies with the requirements for Primary Approval as specified by the St. Joseph County Subdivision Control Ordinance. The Staff therefore recommends that this Subdivision be granted Primary Approval, subject to the following: drainage plan approval, Urban Drain approval, and a note added to the plat stating that that State Line Road is outside the jurisdiction of St. Joseph County, IN and access to State Line Road is therefore subject to the requirements of the relevant regulating agency

DAVE CHERRONE: I never realized that none of State Line Road is part of St. Joseph County's jurisdiction. I thought it was split down the middle.

JOHN MCNAMARA: It varies. It changes sometime around Hollyhock where the road is either all in Michigan or all in Indiana but the maintenance responsibility is Michigan.

IN FAVOR

There was no one present to speak in favor of this petition.

REMONSTRANCE

There was no one present to speak in remonstrance of this petition.

After due consideration, the following action was taken:

Upon a motion by Chuck Bulot, being seconded by Sky Medors, P.E. and unanimously carried, the Plat Committee finds the evidence adduced at this Plat Committee Hearing supports each element of the Staff Report, and Silver Oak Subdivision Subdivision therefore complies with the St. Joseph County Subdivision Control Ordinance and is granted Primary Approval, subject to the following: drainage plan approval, Urban Drain approval, and a note added to the plat stating that State Line Road is outside the jurisdiction of St. Joseph County, IN and access to State Line Road is therefore subject to the requirements of the relevant regulating agency.

SUBDIVISIONS NOT REQUIRING A PUBLIC HEARING

1. MAJOR SUBDIVISIONS - SECONDARY APPROVAL:

Pleasant Valley North Section Five
(Audio Position 6:05)

7201-20-F

ABBY WILES: It's my understanding that the petitioner requested to table.

TERRY LANG: We're not requesting that it be tabled. We're just looking to get a clarification. We would like the plat to be approved and just have it subject to holding any permits on Lot 11 until such time that the existing well that was on site can be properly abandoned per St. Joseph County standards.

BRETT DAVIS: Lot 11 has issues other than just the existing well. The fact that the old residence takes up the bulk of that lot. That's all disturbed soil that we can't place a septic system on. Then we have the retention easement as well. So even with the existing well being properly abandoned, we still don't have room on that lot for two 3-bedroom septic systems. So it is our position that Lot 11 needs to be removed and that land reallocated to other lots that would create space for those homes and those septic systems.

TERRY LANG: Can't it be just set aside and put on hold and then if in the future that cannot be met, then a replat can be done to add that to the adjacent parcels. At this time

currently, we're looking at 15 lots right here, of which of those 15 lots, nine of them are technically under contract if possible if this plat gets approved. None of the contracts are in regards to Lot 11 at this point in time. What we would propose is with the Health Department being the first stop for pulling a permit, Lot 11 could be air-marked as not buildable at this point and also with Chuck Bulot on line, no building permit could be issued for it either. That way the other 14 lots could be built upon and then Lot 11 could be resolved either via a replat, proper execution to design systems once we know the well and septic issues are clarified.

BRETT DAVIS: The Health Department would be amendable to approving that with that lot set aside. However, in doing so I would also require that the remainder of the lots excepting 2, be limited to 3-bedroom sizing.

TERRY LANG: Why all of a sudden does the Health Department ask for 3 bedrooms when we did all of Section 4 in standard procedures, submit for specs on a lot and then design a system for it. It seems like I don't have a house plan for any of these lots right now. I've shown a generic box and said here's where the house would sit, here's where the septic would be located. The latest plan was submitted to the Health department showing maximum length field tile layouts. So what we are looking at, is there a procedural change here in you don't require specs for home sites? You're telling us automatically the number of bedrooms before we ever get a house plan?

BRETT DAVIS: Based on the latest plat, the vast majority of these lots have used up the majority of their space for these 3-bedroom septic systems, showing a 30x64 plan. Your office has submitted two septic applications for this section already, asking for 4-bedrooms and a pool, with a house footprint in excess of 60x60. With the setbacks from the road and then the setbacks from the residence to any septic system components, the Health Department does not see how two full size septic systems as required by County ordinance will fit. So rather than dragging out permits over multiple months and eventually having to tell owners that are already under contract for lots for larger homes that they cannot build on them, we would like to make this part of the plat not, that way everyone is clear from the get go that unless things change, nothing is going to fit other than a 3-bedroom home.

TERRY LANG: I think you're kind of burdening the developer at this point when septic systems have been designed for all of Section 4 and have fit it. It's taken a little longer and may take a redesign and the builder to get together with the owner to redesign a house that fits. So to some extent, requiring that these all be 3-bedrooms is getting the cart before the horse. The soil borings that have been done on the site out there, you're requiring that four of these lots be mound systems when in looking at the review of the soil boring data, only one of them probably should be a mound septic system.

BRETT DAVIS: Those other three lots that you referenced, I have also reviewed the soil reports and based on the colors within those soil reports and not just the tabulated data on the front page, the Health Department does believe that the water table may be higher than indicated. Therefore a mound system would be specified.

TERRY LANG: That's the clarification that we were looking for. Can we just let each individual, case by case be handled whether it be 3 or 4 bedrooms and that's the builders responsibility to design a house that fits that. Not the Health Departments.

BRETT DAVIS: It doesn't sound like it's the health departments, but the Health Department is always the one bearing that news and is always the one that is holding up the development and routinely gets calls from the developer and the builder and from other interested parties asking us to speed the process a long and the Health Department is not really in a position where it can take up an excess amount of time trying to sort this out. We would really like to see some larger lots and I've already indicated on two of these lots that we would not have a restriction on them because it does appear that there would be sufficient space. So granting a little bit more space to these lots would probably lift that requirement. We have two floor plans that are in excess of 60x60 4-bedrooms and a pool. So if we're already set back off the road, then we have 60' worth of house, 10' worth of setbacks, we can't fit two full size septic systems on the lot. So why would we go ahead and approve that now and just have to fight that later?

TERRY LANG: We're not asking for the Health Department to approve it. What we're asking them to do is it spec the type of system and size of system for what is being requested for each individual home. It is my job and the home builders job to see if that home can fit then once we have your specifications. If we can't make it fit, then the home builder and the prospective buyer have to sit down and come up with a different house plan. I just can't see burdening to limit all of them to 3-bedrooms when we don't have house plans for any of them at this point except for potentially two. We're not asking for you to approve the two as presented. That's my job to design it and to also then get together with the builder and say yes it will fit or no it won't fit and here's the max size house once we get the Health Department spec.

BRETT DAVIS: You already have nine lots under contract and so I'm very certain that those contracts already have bedroom requirements factored in. We've already received those two floor plans so that's obviously already been a discussion prior to us issuing minimum design specifications.

TERRY LANG: I gotta have the design specification to be able to see if it will fit or not. That's a discussion between me and the builder. The plat that was just previously approve for primary approval, maybe I shouldn't show any houses on my plan like you had shown on Clover Hill and just say yes theres room for two septic systems just like they have and submit it in that fashion. I think it's kind of pick and choose here. I don't mind designing the systems and if it doesn't fit, telling the builder that it doesn't fit and they've got to come up with a different floor plan either floor plan or one with 3-bedrooms. That's between them and the prospective buyer. Not between the Health Department and the buyer. All we're looking to do is to do it exactly the way we've done in Section 4 and take Lot 3 and set it aside.

BRETT DAVIS: I still don't see how kicking the can down the road is going to be beneficial to anybody.

TERRY LANG: Then I think you also need to require on Clover Hill that individual house plans need to be shown on there also.

BRETT DAVIS: Clover Hills was Primary Approval, not final.

TERRY LANG: Right. Let that be the builder, the developer and the potential buyer work those details out once we get your spec. All we're asking you to do is spec it once it's submitted. Ours is the design.

BRETT DAVIS: We are not really in a position where we can make compromises out on this site. There's already septic systems less than 4 years old within Pleasant Valley North that are experiences failure issues. There are already new wells that have been drilled in Section 4 that have coliforms. We cannot jeopardize the water quality for the future residents of these homes and their neighbors. We don't want to have development occur that is going to jeopardize public health and it seems very unlikely that any septic system and replacement could fit on these lots for homes that are going to be larger than 3-bedrooms. In order for that to work, there's going to have to be compromises made and we're not really in a position to make those compromises.

TERRY LANG: I'm not looking for compromise, I'm just asking, spec the way you always have and let the design, house location, configuration of the house be our concern. We're not taking any control away from the Health Department other than the fact that we want it to continue to be handled exactly as it has in the past.

JOHN MCNAMARA: Right now we have a recommendation that it would be given secondary approval subject to eliminating Lot 11 and restricting all other lots to 3-bedroom houses. If that motion went through, it would still give you the opportunity to take a look at the design of the subdivision and work it out with the Health Department.

TERRY LANG: I just don't want it in stone that each house has to be 3-bedroom. Let the stipulation read that the design must meet St. Joseph County Health Department standards and if it ends up being 3-bedroom, fine. If it ends up being 4-bedroom, fine.

JOHN MCNAMARA: With all the problems that we've had in St. Joe County with septic systems, in good conscience I can't vote against the what the Health Department is recommending. I would recommend that maybe we could table it for two weeks and you could try to work it out with the Health Department.

TERRY LANG: We've been trying to deal with them for the last two weeks. All we're asking for them to do is do the job the way they have done it in the past.

JOHN MCNAMARA: Ok, we'll leave it the way it is. So we're down to the issue of issuing secondary approval subject to.

SHAWN KLEIN: Which includes the elimination of Lot 11 just to clarify.

TERRY LANG: Just holding 11 out correct? We're holding permits for it?

BRETT DAVIS: It was our position that Lot 11 is an unbuildable lot. If other members of the committee want to take other action regarding Lot 11, that would be their prerogative.

CHUCK BULOT: For what it's worth, a building permit would not be issued for Lot 11 until we got approval from the Health Department.

TERRY LANG: And that's exactly what we're asking for. Let it be the Health Department approval for 11 in the future and then the Building Department approval after that. So as of right now, 11 would not be a buildable site until that is rectified.

SHAWN KLEIN: I don't know if Area Plan is comfortable creating a lot in a subdivision that is unbuildable until proven to be buildable.

TERRY LANG: The other alternative that I have is, that becomes Pleasant Valley Section 6. I'll pull that lot off and we'll deal with it in that manner and that's an alternative.

SHAWN KLEIN: That's what I was going to propose. We can do that.

TERRY LANG: I can amend that final plat for section 5 to eliminate Lot 11.

BRETT DAVIS: I would have no problems with that aspect.

SHAWN KLEIN: Works for me.

TERRY LANG: Sounds like we're amiable for that Lot 11 being taken off then.

SKY MEDORS: Brett where are you at with everything else given the conversations that we've had?

BRETT DAVIS: Lot 11 out, the Department of Health still feels that excepting lots 7 and 59, we don't see a path forward with in excess of 3 bedrooms. My recommendation is unchanged. This is not a novel way of doing this. This has been done in the past and we are merely following precedence.

ABBY WILES: Are you proposing that for the entire plat or for a range of lots?

BRETT DAVIS: All lots excepting lots 7 and 59 would be limited to 3-bedroom sizing.

TERRY LANG: It sounds like the Health Department is not willing to do their job on specing the system and letting us do the design. If it doesn't work, it doesn't work. That's the builders responsibility to redesign the house. Or change the number of bedrooms in the house. I don't want to change procedure, I want to follow exactly the way the procedure has been done in the past.

BRETT DAVIS: The Health Department motions for secondary approval subject to restriction of bedrooms for all lots to 3 excepting lots 7 and 59 and the elimination of Lot 11.

ANDY KOSTIELNEY: I just want to get a little clarification of if the action taken now, if there is any ability to modify things moving forward or if it's better for the developer to table this and go back to the drawing board to see if they can work something out. I'm not sure what's the preferred method for the developer here.

JOHN MCNAMARA: I would have no problem tabling it for two weeks. I suggested that once but Terry Lang said that wouldn't change anything.

BRETT DAVIS: Being that the motion was subject to changes to the plat, this plat as presented is not final so any changes would be taken into affect prior to the approval.

TERRY LANG: So at this point there is no option at all if we go forward with that to allow a 4-bedroom if it does fit.

BRETT DAVIS: If it does end up fitting, the Health Department would not stand in the way of those permits at that time. However, we want to place the 3-bedroom limitation on the plat to set expectations for these lots that it does not appear that anything greater than 3-bedrooms is going to fit. However, if at the time of the permitting, it does fit, the Health Department is not going to object to a 4-bedroom septic system.

TERRY LANG: Ok, if that's the recommendation that you just stated right there, the builder and the developer can work with that. That's different than putting a limitation on all of them.

BRETT DAVIS: We still want to put the limitation on them and have it be on the record that 3-bedrooms is all that's going to fit and that they should be limited to 3-bedrooms. That would be for Pleasant Valley North Section 5. But when it comes to the individual permit, if it does work, the Health Department would not stand in the way of issuing those permits.

TERRY LANG: And that recommendation that you made right there leaves it up to me and the builder to work the house plan and the septic. We're acceptable to that.

BRETT DAVIS: The Health Department would still be able to hang it's hat on the plat saying we would be able to draw the line and say the plat says 3-bedrooms if it comes to that.

TERRY LANG: If it doesn't fit, that would be your option, yes.

SHAWN KLEIN: So the not on the plat would have to further specify that if it's demonstrated that more than 3-bedrooms could work, that the Health Department would grant permits. Are you still agreeable to that Brett? Otherwise it would be a flat out limitation to 3-bedrooms.

BRETT DAVIS: Yes.

TERRY LANG: The developer is acceptable to that same thing.

JOHN MCNAMARA: What's the difference between lots 13 and 14?

TERRY LANG: What do you mean difference?

JOHN MCNAMARA: You say there's a typical 3-bedroom house, 900 square foot field system on lots 12, 14, 15, 16 and 17. What about 13. 13 is the same size as 14.

TERRY LANG: You mean the detail? That detail is an older plan. There is a newer plan that the Health Department has. That lot has been determined to be one that would be required to have a mound system. That was reflected on the amended plan that the Health Department has. We don't have a problem with the soil borings being done on all those locations. That is acceptable to the builders if we know that going in and built into the cost of building the home. My question with regards to the mound septic systems was why it was one lot here one lot there. There's four of them speced at random locations through the site. If there's other things that the Health Department are seeing there is what Brett had indicated, that would request that those be mound systems. That was the clarification we were looking for at the end of last week but we never got a response to. We are acceptable to letting those be mound systems as said on that final plan. Did you have any problems with the other designs Brett?

BRETT DAVIS: There were the issues with Lot 11, but with that being gone, Lot 12 is not fantastic but it does appear that there would be enough space to give the septic system a buffer to the property line. The rest of them do appear to meet applicable sizing requirements.

TERRY LANG: The way the wording should be, what Shawn had just indicated that whether it be 3 or 4 bedrooms to be determined by the Health Department and we can put that appropriate wording on the plat then so that gives the Health Department their ability to leave that as their out if the house and the septic don't fit.

CHRIS HICKEY: I'm the developer of the subdivision and my first question would be why wouldn't we just leave the 3-bedroom requirement off and let us design the house

and the septic with the Health Department's approval? Secondly, with that, with the discussion right now taking Lot 11 off and the Health Department's obvious concern for the 3-bedroom vs 4-bedroom house, why don't we take that two weeks Terry for us to regroup as long as we're going to have some sort of access to Brett or whoever at the Health Department when we have questions we're going to get some answers so that we're not taking up this much time on a meeting like this in two weeks where we have most of the answers and just get everybody on the same page. That would be my recommendation from the developer standpoint.

TERRY LANG: If you want to table it, I will honor that tabling. I just need a little direction on what I'm supposed to prepare to satisfy the Health Department's needs.

CHRIS HICKEY: I'd say let's table it for two weeks but I'd like an understanding of if there's any wiggle room at all to not have a 3-bedroom requirement, or if we do put that as long as it's really going to be on the plat that if a 4-bedroom fits per Health Department specifications, that they would honor that.

BRETT DAVIS: I would be amendable to tabling this and then to working with you guys to come up with better language to place on the plat regarding bedroom sizing. If we don't have a solution come next Plat meeting, we'll be back to where we are now.

CHRIS HICKEY: Terry you good with that?

TERRY LANG: I'm good with that. I'll make the necessary arrangements to take Lot 11 off. It's less of an encumbrance for me and the developer cost wise if Lot 11 could be made into an outlot right now. It would be an unbuildable lot and allow the rest of them to proceed in that fashion.

SHAWN KLEIN: That's fine, you can make it into an outlot and then just come back with a minor.

TERRY LANG: It could either be a minor or a replat if it's added onto the homes on either side.

SHAWN KLEIN: Exactly.

TERRY LANG: That way, the rest of them are moving forward.

BRETT DAVID: I withdraw my prior motion and now motion to table.

After due consideration, the following action was taken:

Upon a motion by Brett Davis, being seconded by Chuck Bulot and unanimously carried, Pleasant Valley North Section Five Subdivision is tabled to the January 21, 2021 Plat Committee meeting .

2. MINOR PLATS:

Ward's Beech Road Minor Subdivision
(*Audio Position: 36:30*)

7191-20-M

After due consideration, the following action was taken:

Upon a motion by Chuck Bulot, being seconded by Sky Medors, P.E. and unanimously carried, the waivers from 1) from Section 153.021(F) to not have a frontage street or reverse frontage with a minimum five foot non-access easement along the arterial street, and 2) from Section 153.025(M) to allow for one 25' opening across the 5' non-access easement for continued access onto Oak Road for Lot 1 were approved.

Upon a motion by Chuck Bulot, being seconded by Sky Medors, P.E. and unanimously carried, the Plat Committee finds the evidence adduced at this Plat Committee Hearing supports each element of the Staff Report, and Ward's Beech Road Minor Subdivision therefore complies with the St. Joseph County Subdivision Control Ordinance and is granted Primary Approval, subject to the following: a copy of the signed plat being submitted.

3. REPLATS:

None for consideration at this time.

4. TYPE II CORRECTIVE PLATS:

None for consideration at this time.

5. MINUTES:

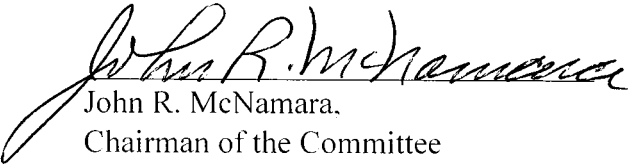
A. Approval of the minutes from the December 23, 2020 Plat Committee Meeting.

Upon a motion by Chuck Bulot, being seconded by Sky Medors, P.E. and unanimously carried, the minutes from the December 23, 2020 Plat Committee meeting were approved.

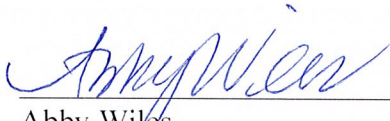
6. ADJOURNMENT:

Upon a motion by Sky Medors, P.E., being seconded by Brett Davis and unanimously carried, the January 7, 2021 Plat Committee meeting adjourned at 9:05 a.m.

RESPECTFULLY SUBMITTED.


John R. McNamara,
Chairman of the Committee

ATTEST:

A handwritten signature in blue ink, appearing to read "Abby Wiles", is written over a horizontal line.

Abby Wiles,
Secretary of the Committee